

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD**

DIDLAKE, INC.

) Case No. 05-RC-179494
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**PSE LOCAL 572’S OPPOSITION
TO DIDLAKE, INC.’S MOTION TO STAY CERTIFICATION**

Petitioner, Public Service Employees Local Union 572, LIUNA, submits the within opposition to the Motion to Stay Certification of the Employer, Didake, Inc. Didlake’s motion should be denied on the grounds that it is moot.

The law is “beyond dispute that a request for injunctive relief generally becomes moot upon the happening of the event sought to be enjoined.” *Harris v. City of Houston*, 151 F.3d 186, 189 (5th Cir. 1998). The reasons is simple: Courts “simply cannot enjoin that which has already taken place.” *Id.*; *see also Zen Music Festivals v. Stewart*, 72 F. App’x 168, 169–70 (5th Cir. 2003) (“where ‘the terms of the injunction ... have been fully and irrevocably carried out,’ and where any underlying issues remain for a trial on the merits of the case, the appeal of the preliminary injunction should be dismissed as moot.”) (citing *University of Texas v. Camenisch*, 451 U.S. 390, 398, 101 S.Ct. 1830, 68 L.Ed.2d 175 (1981)).

Here, the Regional Director issued a Certification of Representative certifying Local 572 as the exclusive representative of the Didlake unit of custodians at the Army National Guard facility in Arlington, Virginia on May 5, 2017. As the certification already has issued, it cannot be stayed. *See Barnhill v. Pregent*, No. CIVA 3:09-CV-0273, 2010 WL 1791170, at *3 (M.D. Pa. May 3, 2010) (“[T]here is the logical problem of seeking a ‘stay’ of something that has

already happened”); *City of New Orleans v. Nat'l Serv. Cleaning Corp.*, No. CIV. A. 96-1601, 1997 WL 5915, at *1 (E.D. La. Jan. 6, 1997) (ruling that the court “was not empowered” to “‘stay’ something that has already occurred”).

CONCLUSION

Accordingly, Didlake’s request to stay the certification that issued on May 5, 2017 should be denied as moot.

Date: June 26, 2017

Respectfully Submitted,

/s/Brian J. Petruska
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing PSE LOCAL 572'S OPPOSITION TO DIDLAKE, INC.'S MOTION TO STAY CERTIFICATION was served upon the parties listed below this day by Electronic Mail at the addresses listed below:

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